## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA Charlotte DIVISION DOCKET NO. 3:18-cv-00440-MOC-DSC

| PASHEENA DAYS                   | ) |       |
|---------------------------------|---|-------|
| WESLEY E. DAYS,                 | ) |       |
|                                 | ) |       |
| Plaintiffs,                     | ) |       |
|                                 | ) |       |
| Vs.                             | ) |       |
|                                 | ) | ORDER |
| U.S. BANK NATIONAL ASSOCIATION  | ) |       |
| BAYVIEW LOAN SERVICING, LLC     | ) |       |
| SN LOAN SERVICING CORPORATION   | ) |       |
| U.S. BANK NATIONAL ASSOCIATION  | ) |       |
| NS163 LLC                       | ) |       |
| U.S. BANK NATIONAL ASSOCIATION, | ) |       |
|                                 | ) |       |
| Defendants.                     | ) |       |

THIS MATTER is before the Court on Bayview Defendants' Motion to Dismiss (#16), SN Defendants' Motion to Dismiss (#23), and Plaintiffs' <u>pro se</u> Motion to Amend Complaint (#40). A hearing was held on these motions on July 10, 2019. Given the procedural complexity of this case and applicable policy considerations, the Court will grant Plaintiffs' Motion to Amend (#40). The proposed amended complaint, located at pages 5 through 41 in Plaintiffs' Motion to Amend (#40), supersedes all other complaints filed in this matter. Plaintiffs are not to amend their complaint again without first seeking leave of Court. Defendants' Motions to Dismiss (##16, 23) will be dismissed as moot. Defendants argue amendment is futile, but the Court notes that there is a strong policy in favor of liberal amendment and that <u>pro se</u> plaintiffs are entitled to leniency. At this early stage in the litigation, the Court will allow amendment. Defendants may file another motion to dismiss the newly amended complaint if they so wish. Having considered the motions and reviewed the pleadings, the Court enters the following Order.

## **ORDER**

## IT IS, THEREFORE, ORDERED that

- Plaintiffs' pro se Motion to Amend Complaint (#40) is **GRANTED**; 1.
- 2. Bayview Defendants' Motion to Dismiss (#16) and SN Defendants' Motion to Dismiss (#23) are **DENIED** as moot; and
- The Clerk of Court is respectfully instructed to re-file Plaintiffs' proposed amended 3. complaint, located on pages 5 through 41 in the pro se Motion to Amend (#40), in a new docket entry as the Second Amended Complaint.

Signed: September 16, 2019

Max O. Cogburn J.

United States District Judge